

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, August 15, 2006
Time: 6:00 PM (Closed Session)
7:00 PM (Public Business)
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd.

ROLL CALL

Mayor Esteves called the meeting to order at 6:02 PM.

PRESENT: Mayor Esteves, Vice Mayor Gomez, Councilmembers Giordano, Livengood and Polanski

ABSENT: None

CLOSED SESSION

Mayor Esteves publicly stated the Council convened in Closed Session to discuss the performance evaluation of the City Attorney. No announcement was made following the review.

The City Council reconvened in Open Session at 7:00 PM with Mayor Esteves presiding and all City Councilmembers present.

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

A quote from Maya Angelou was offered by Councilmember Althea Polanski, regarding diversity makes for a rich tapestry, where all threads are equal in value no matter what color.

MINUTES

MOTION: approve minutes of August 1, 2006 City Council meeting, as submitted.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings, as amended.

Councilmember Giordano asked her colleagues about scheduling a meeting for the interviews of the applicants for Planning Commission alternate member. City Council agreed to hold the interviews at a special meeting on Tuesday, September 12 at 6:00 PM. The City Clerk was asked to notify applicants of the interview date and time and to add it to the calendar.

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATION

Mr. P. Komeily, Executive Director of **AbleProject.org**, addressed the Council, with a visual presentation of services offered by this non-profit organization dedicated to assisting the disabled community in Milpitas. He introduced three gentlemen with him: Mr. Ahmad Tehrani, Chairman of the Board; Mr. Kyle Smith, Able Project Giving Program Chair; and, Mr. Arash Kouchesfehni, Able Project Co-founder.

Able Project was established in 2002 as a 501(c)3 non-profit, with its website operational in 2003. The Project serves as a network for people with disabilities and he encouraged people to view it on the web at ableproject.org, as a one-stop location to find products. Able Project is successful by going out to the manufacturers to seek products to help those who need them, also with a Referral Program and a Giving Program.

Contact information for this non-profit was provided: phone (408) 263-8000, office located at 552 A Valley Way, Milpitas or info@ableproject.org.

PUBLIC FORUM

Frank DeSmidt, invited everyone to attend this weekend's "Celebrate Milpitas" festival here on Milpitas Blvd., formerly the Art & Wine Festival. He also announced upcoming candidate events this fall sponsored by the Chamber of Commerce.

ANNOUNCEMENTS

Councilmember Polanski congratulated all those who participated in 23 Milpitas "Night Out" celebrations on Thursday evening August 3. She also noted the temporary walkway from the Senior Center to the Post Office as hard to walk on, per several Milpitas senior citizens, and that maybe it was not safe. The City Manager responded that staff would investigate.

Councilmember Giordano attended a CEWAER conference in Sacramento last week, for elected women officials in the state. She was excited to hear from elected officials statewide, and the common denominator across California was the urgent issue of housing needs.

Councilmember Livengood had a request for City staff: at the corner of Milpitas Blvd. and Dixon Rd. where there had been a fire, the building has become an irritant to the neighborhood, and thus he asked what was going on there? He asked for a staff report back on that topic. The City Manager agreed that Planning staff would respond to his inquiry.

Mayor Esteves welcomed new businesses: Keystone Credit Union, Imperial Real Estate and Financial Office, and the expansion of Blue Dragon Tae Kwon Do studio.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

City Manager Charles Lawson confirmed that Item No. 17 was on the consent calendar.

Motion/Second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with an *asterisk), as amended.

Vice Mayor Gomez requested that Items No. 6 and 7 be placed onto the consent calendar, with the recommendation for approval.

Motion/Second: Vice Mayor Gomez/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

* **6.** Propositions 1E and 84 on November 7, 2006 Ballot

Endorsed statewide California Proposition 1E, regarding Flood Prevention, and Proposition 84, regarding a Water Bond, on the November ballot.

* **7.** United Way 2-1-1 Communication Service

Approved contribution of \$10,000 to United Way as Milpitas's contribution to the new 2-1-1 phone information service, set to debut in February 2007 in Santa Clara County.

* **8.** Donation to Student for Youth Leadership Conference

Approved a \$500 donation to Milpitas student Christine Tran for registration and travel costs to attend the Junior National Youth Leadership Conference in Washington, D.C.

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| * 9. Terrace Gardens, Inc.
Annual Financial Report | Received the Terrace Gardens annual financial report. |
| * 10. Approve Two Youth
Sports Assistance Fund Grant | Approved one Organizational Youth Sports Grant for the Milpitas Tidal Waves for \$1,000 and one Individual Youth Sports Grant for \$500 to Martin McKeefery, leaving a balance of \$6,500 for the remainder of the fiscal year. |
| * 11. Updated Public Art
Donation Policy and Procedures | Approved the updated City of Milpitas Art Donation policy, application and procedures. |
| * 12. Certificate of Compliance | Approved Certificate of Compliance (P-CC2006-1) for three developed lots located at 1416-1444 Calle Oriente Drive, to make them legal lots of record, based on the findings and special conditions. |
| * 14. Authorizing BAWSCA to
Represent the City | Adopted Resolution No. 7622 authorizing the Bay Area Water Supply and Conservation Agency to represent the City of Milpitas during the contract negotiations. |
| * 15. Resolution Granting Final
Acceptance, Project No. 4200 | Adopted Resolution No. 7623 granting final acceptance and releasing the bond for the contract with Fanfa, Inc., for the Singley Area Street Rehabilitation, Project No. 4200. |
| * 16. Resolution Granting Final
Acceptance, Project No. 4133 | Adopted Resolution No. 7624 granting final acceptance and releasing the bond for the contract with Watkin & Bortolussi, Inc., for the Great Mall Parkway Street Trees and Median Mulch Renovation, Project No. 4133. |
| * 17. Resolution Granting Final
Acceptance, Project No. 4178 | Adopted Resolution No. 7625 granting final acceptance and releasing the bond for the contract with Granite Rock, Pavex Construction Division for Great Mall Parkway/I-880 Capacity Improvements, Project No. 4178. |
| * 18. Subdivision Improvement
Agreement, Final Map and
Public Improvement Plans | 1. Approved public improvement plans and final map for Apton Plaza, Tract No. 9690 and Project No. 3144.
2. Authorized the City Manager to execute the secured Subdivision Improvement Agreement, subject to the approval of the City Attorney as to form. |
| * 19. Re-advertisement for bids
for Project No. 4179 | Authorized the Re-advertisement for construction bids for the Montague Expressway Eastbound Median Modification between Piper Dr and Gladding Ct, Project No. 4179 |
| * 20. Agreement with Norcal
Waste Services for Debris Box | Authorized the City Manager to execute an agreement with Norcal Waste Services for a debris box, subject to approval as to form by the City Attorney. |
| * 21. Skyhawks Sports Programs
for Summer 2006 Sports Camps | Authorized the City Manager to execute a contract with Skyhawks Sports Programs for Kids for Summer 2006 Sports Camps, for the not to exceed amount of \$27,500.00, subject to approval as to form by the City of Attorney. |
| * 22. Award Bid For ADA
Pedestrian Ramps | Awarded bid to Sposeto Engineering, and authorized the City Manager to execute a contract for construction of Americans with Disability Act Pedestrian Ramps within the City of Milpitas, for the not-to-exceed amount of \$66,000. |
| * 23. Approve Payment of the
CAL-ID Invoice to the City of
San Jose | Milpitas' share of the annual cost was \$58,275 in FY 2006-07, an increase of \$2,527 from FY 2005-06. Funds were included in the FY 2006-07 Police Department budget. Approved CAL-ID invoice payable to the City of San Jose in the amount of \$58,275. |

PUBLIC HEARINGS

1. Appeal of Planning Commission Decision To Deny Use Permit Amendment to Permit a 12'x18' Dance Floor for King Crab Restaurant

Planning Manager Tom Williams reviewed the appeal, stemming from King Crab's application to add a dance floor for special events. He explained the rationale (as stated in the agenda report) for the Planning Commission's denial of the application for a dance floor and expanded parking. Mr. Williams noted that the City Council had the options at this meeting to uphold the Commission's denial of the permit or to approve the use permit (overturn the denial).

The Planning Commission's denial was based on its inability to make the following specific finding: "The Project will not create any negative community impacts or be detrimental to public health, safety and general welfare. The dance floor is an ancillary use to primary restaurant use and will not impact parking, noise or odors." Detrimental would be the lack of parking spaces in the lot, 14 parking spaces deficient currently.

The applicant noted that the disapproval does not resolve the daytime parking demand that already existed. Staff pointed out the 14 parking spaces that the restaurant was deficient in that shopping center.

Councilmember Livengood wanted to determine if approval of the dance floor would intensify use, where parking would get worse. He asked what changed by adding dancing at the King Crab restaurant? Staff responded that dancing would be added only for receptions, such as weddings, on evenings and weekends (not daytime, weekdays).

Councilmember Polanski had been in that parking plaza, and expressed how difficult it was to exit the plaza into traffic. She confirmed that parking hazards exist, and wanted to know if anything would be done to alleviate the congestion, not solely at lunch time.

Mayor Esteves questioned how a change in the use inside the restaurant (dancing v. eating) could affect the deficient number of parking spaces that has existed.

A representative for the applicant spoke, Architect Eddie Shen, who explained that the change was strictly for wedding and banquet receptions, held mostly on weekends. A neighbor of the owner had complained at the Planning Commission hearing, and he felt that was primarily why it was denied at that meeting.

Mayor Esteves inquired if the use of a dance floor would be limited to weddings on evening hours and weekends only. The architect stated the hours could begin at 6:00 PM on for evening activity.

Vice Mayor Gomez asked about Condition No. 3 v. No. 5. Staff explained the difference in restaurant hours versus the later dancing hours.

The Mayor opened public hearing for public comment.

Don Peoples, President of Milpitas Downtown Association, stated King Crab was a very successful restaurant. It was burdensome for the other property owners, with overflow parkers who go into their lots. The parking problem needs to be solved in that development and the City should assist the restaurant to find a way to get a dance floor.

(1) Motion: to close the public hearing

Motion/second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: Uphold the denial of the permit for the dance floor

Motion/second: Councilmember Giordano/Councilmember Livengood

Councilmember Livengood wanted to follow through with what Mr. Peoples said, to get the group of business owners together to solve the parking problem overall.

Councilmember Polanski asked if upholding the appeal, and then send it back, could the owner go back through process?

City Attorney Mattas provided guidance to the Council on how they might proceed. Ms. Giordano then withdrew her original motion above, with the consent of Mr. Livengood.

(3) Motion: continue this matter on appeal for about 60 days, provide City staff and business owners an opportunity to sit down, take in the context of the whole center, and return to City Council at the second meeting in October with the appeal

Motion/Second: Councilmember Livengood/Councilmember Polanski

Mayor Esteves announced his support of the new motion.

Motion carried by a vote of: AYES: 5
NOES: 0

**2. Entertainment Permit for St. John the Baptist Church
“Autumn Festival” on
September 15-17, 2006**

City Clerk Mary Lavelle explained the request for an Entertainment Event Permit for the second annual Autumn Festival in September. Two requests from the Church of the City were: (1) obtain some orange parking cones to assist with traffic flow set-up, and (2) to waive the fire inspection and permit fee of approximately \$400.

Ms. Lavelle introduced the church’s Autumn Festival Committee Chair Mrs. Riza Santoro. She commented that the Committee still seeks a written letter of permission for parking at the nearby Serra Shopping Center. Mrs. Santoro also was working on obtaining the current insurance certificate that the City required.

Councilmember Livengood asked questions about the parking flow, and requested that the Festival Committee folks be very clear where patrons could park, with an emphasis on the east side of the street, so as to be courteous to businesses and homeowners in that downtown neighborhood.

The Mayor opened public hearing for comments.

Don Peoples, President of the Downtown Association, commented on the issue of parking in the area where the festival would be held. With kids and parents crossing the street, he requested St. John’s maximize the parking on the east side of Abel, making lots of parking available. He offered his assistance to help get cooperation with other business and church owners to ensure that east side parking would be better for the festival goers, and ensure good cooperation.

(1) Motion: to close the public hearing

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: Approve Entertainment Event Permit for St. John the Baptist Catholic Church’s Autumn Festival for the weekend of September 15, 16 and 17, 2006, with all departmental conditions noted and waive the fire inspection permit fee

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

**3. General Plan Amendment
Denial GP2005-11 and Zone
Change Denial ZC2005-2 to
Fairfield for Residential Use**

Planning Director Tom Williams reviewed the request from applicant Fairfield Residential LLC to seek a General Plan amendment with a rezone of land from industrial to a planned unit development (PUD) residential use. The land in question was in the western part of the City, near the research and development/technology center section of

Milpitas, near where Cisco, KLA Tencor, Maxtor/Seagate, and SanDisk companies do business in Milpitas. Fairfield Residential would propose 659 new residential units, both condominium and rental apartments.

The purpose for bringing forward this matter to City Council at this time was fourfold: to avoid excess time and expense; to provide direction sooner (pre-EIR) rather than later (following issuance of draft EIR); to act to deny the request, based solely on the land use issue in the City – not the merits of the specific project proposed; and, staff indicated its position to deny the project prior to formal submittal by applicant.

Mr. Williams provided a broad overview of the planning staff's perspective on land use in Milpitas, and the recommendation to maintain a large campus-type available industrial land in the region under discussion. This was a long-term view of what would be best for Milpitas. On July 26, the Planning Commission voted 6-0 to deny the land use change requested. The proposed change conflicted with the General Plan, in seven specific areas noted in the staff report. Furthermore, the re-zone would not actually promote "Smart Growth," as it does not meet the definition of that concept.

He reviewed how the City had accommodated business and housing already planned in the MidTown area along with the Great Mall redevelopment area.

Councilmember Giordano inquired if Fairfield had been in application with the City for one year. Staff replied that the original application was in February of 2005, when staff indicated no support to the applicant. In January of 2006 was the first time Mr. Williams met with Fairfield and provided the same indication, based solely on the land use (without any environmental review).

Vice Mayor Gomez asked if this was the first time the Council considered an early denial process and staff replied, most likely, yes. He asked what issues an Environmental Impact Report would analyze? Staff responded traffic, noise, land use impacts, soils, chemical products used by surrounding companies, and public services support needed such as schools, among other issues. Mitigation measures would be suggested in the EIR, also.

As a related issue, Vice Mayor Gomez inquired about the City staff's inventory of industrial land. He felt that information could help him make a decision. Mr. Williams anticipated that report in early September for completion and then brought to the City Council in October most likely. The Vice Mayor also inquired about an industrial land use conversion policy and whether there was a City policy; Mr. Williams said no.

Mayor Esteves noted he had received a letter received from KLA Tencor on this matter. He then invited comments from the applicant.

Mark Faulkner, Vice President of Fairfield Residential/Murphy Ranch project spoke, requesting the City Council allow his company to go through the full environmental and project planning process, to proceed with an EIR. He introduced his staff, which was available to answer questions. Also, a representative from Lucent Technologies – the property owner – was present in support of project moving forward.

Ed McCoy, Vice President of Fairfield Residential for the Murphy Ranch project, gave a powerpoint presentation (handout provided to Councilmembers) reviewing the history to date from Fairfield's point of view, and rebutted several of the points staff presented earlier. His company had spent \$600,000 to date on reports and plans, and would like to move forward on the potential housing project. Fairfield wished to stress the housing required in the City of Milpitas according to the City's Housing Element in the General Plan, and wished to proceed with the Murphy Ranch project to assist the City in meeting its goals.

Furthermore, Mr. McCoy recognized that the existing Development Agreement with Octel would require amendment, regarding fees for transportation improvements. Those improvements could be achieved with the new development.

Mayor Esteves announced that a Milpitas resident asked if he had met with Fairfield, and he stated no he did not, for the record. He asked if Fairfield had met with any Council members. Mr. McCoy stated that he had met only with Mr. Livengood.

The Mayor opened the public hearing for comments.

Don Peoples, President of the Milpitas Downtown Association and Milpitas Economic Development Commissioner, agreed with the City staff assessment. It doesn't offer much for the residential community in Milpitas. This would have a negative impact on MidTown development, and this residential plan would stifle MidTown. Also, lots of speculation was going on regarding industrial property, with some industrial land being marketed as too expensive. It was speculative that land could be offered for residential housing. So, the current project would have a negative business growth. Also, it set up an island of residents, who would have little close relation with the rest of Milpitas residents who might not feel connected to rest of the Milpitas community.

(1) Motion: to close the public hearing

Motion/second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

Mayor Esteves asked, in terms of housing required, based on the Housing Element, could Milpitas project and satisfy requirements with the MidTown Plan and the Transit Area Plan? Mr. Williams replied yes and the City would exceed Housing Element goals once built out.

Vice Mayor Gomez was overwhelmed, with the good arguments on both sides, and filled with "I don't know," he needed to learn whether issues could be mitigated. He did not know how much sewer capacity was needed, if church land was near other neighborhoods/industrial use, but not residential as here? He wanted to start a discussion on industrial land conversion use policy.

Councilmember Giordano said staff brought up the most valid comment that this change would take away from industrial land use inventory. Council needed to find a win/win situation, to look at the underutilized industrial land now – so, make a plan. It was similar to the MidTown Plan, as the city was open-minded to create great opportunities. She quoted an August 11 Business Journal news article on housing in Silicon Valley, with comments from SVLG Carl Guardino and Don Guage: "lack of affordable homes for all our workers" was one of the most pressing identified needs everywhere they go.

Councilmember Polanski agreed that good points from both sides were made at this meeting. Balance was sought between industrial and residential uses in the City. She could not decide today on the parcel, if it was good/not good for high density housing. She was unable to say no to infill, when the industrial use study was not reported yet.

Councilmember Livengood noted he was part of the City Council that approved housing at McCarthy Ranch over ten years ago, when the City became more pro-active on housing to meet the growing demand, became more flexible on that side of I-880. He felt the staff arguments were outdated – they hark back to the 1980s. The City must start changing the way industry and technology was changing. Probably in the future Council would be approving housing next to where industrial uses were located. He favored allowing the applicant to come forward with an Environmental Impact Report and future plans. He was concerned about the isolation factor, but also acknowledged that lifestyles

were different now, with neighbors who did not all know each other in close neighborhoods any longer. The City should get on with the current trend, similar to the region around the Cisco buildings in neighboring San Jose.

Mayor Esteves called this a difficult situation, as he wanted to support staff and the Planning Commission position. He was scared that prime real estate would be used as housing. He looked at the site as a Milpitas Technology Center and did not want businesses to leave the city. It was not the EIR that was at issue, rather preservation of the site as a technology area in Silicon Valley. He supported the idea of "Smart Growth" and did not support a project if it was not Smart Growth.

(2) Motion: deny staff's recommendation to deny the General Plan amendment and rezone of land, and thus, allow the Fairfield/Murphy Ranch project to proceed with the process (conduct an Environmental Impact Report if they choose)

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 4
NOES: 1 (Esteves)

The City Council then took an announced 10 minutes break at 9:15 PM. They reconvened at 9:25 PM.

UNFINISHED BUSINESS

4. Introduce Ordinance No. 101.19 regarding PERS Agreement, and Adopt Resolution of Intent

Human Resources Director Carmen Valdez explained the request to amend the Public Employee Retirement System agreement for two specific benefits. Per negotiations with the Milpitas Police Officers Association, the City agreed to amend the contract with PERS to provide pre-retirement death benefits and 1959 Survivor benefits 4th level for local police only.

Government Code requires that the City disclose associated costs and adopt a Resolution of Intent. She stated the dollar amount representing the present value of Section 21548 benefit was \$151,245, while the City would not pay that amount, rather it represented the value to all the members eligible throughout the lifetime of the benefit. Accrual Liability for the City was \$100,775, amortized over a 20-year period. Approximate cost this year would be \$8,400. For Section 21574 benefit, there were no additional costs to disclose.

Mayor Esteves asked the total amount of the new MPOA contract agreement. Staff did not have the exact cost figures, but the Finance Director stated an estimate of \$1.5 or \$1.6 million dollar over three years.

Ms. Valdez recommended that the City Council waive the first reading beyond the title and introduce the Ordinance, and adopt the Resolution of Intention. She read the title of Ordinance No. 101.19 "An Ordinance of the City Council of the City of Milpitas Authorizing an Amendment to the Contract Between the City Council of the City of Milpitas and the Board of Administration of the California Public Employees' Retirement System to Provide Section 21548 (Pre-Retirement Optional Settlement 2 Death Benefit) and Section 21574 (4th Level of 1959 Survivor Benefits) for Local Police Members Only."

(1) Motion: Waive the first reading beyond the title of Ordinance No. 101.19

Motion/Second: Councilmember Livengood /Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: Introduce Ordinance No. 101.19

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

(3) Motion: Adopt Resolution No. 7621 of Intention to Approve an Amendment to the Contract Between the Board of Administration of California PERS and the City Council of the City of Milpitas

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

5. Introduce Ordinance No. 262.3 Regarding Open Government and Approve Lobbyist Registration Form

Councilmember Livengood explained the rationale for the proposed amendment to the Open Government ordinance and lobbyist registration form. The ordinance was to clarify what it means to be a lobbyist, and thus provided an updated definition of lobbyist, which added that a government employee was not a lobbyist. He emphasized that this did not include people who speak and are not paid for that action, which was a first amendment right.

Mayor Esteves inquired how this compared to the City of San Jose's lobbyist registration. Some information was given by the City Clerk, and questions were raised about the definition in that City's lobbying ordinance and requirements.

Vice Mayor Gomez stated San Jose's lobbyist ordinance had lots of limitations, and Milpitas' was not based on that uncertain model, with lots of loopholes, such as a minimum number of lobbyist hours required.

Mr. Livengood stated he did not want to follow San Jose, and he liked the definition in Milpitas as recommended by the City Attorney.

Mayor Esteves wanted to look into San Jose's in detail, and was not comfortable in a piecemeal look at the topic.

Councilmember Polanski wanted more information, about circumstances if someone did not report as a lobbyist. She felt anyone could circumvent any of this, and it was just by choosing not to report, not to say something, and to write all this down. She was not supportive at this time and continued to disagree with the subcommittee of the City Council looking at this topic.

The City Attorney read the title of Ordinance 262.3 "An Ordinance of the City Council of the City of Milpitas Amending the Open Government Ordinance, Section I 310-3.10(d) of the Milpitas Municipal Code."

(1) Motion: Waive the first reading beyond the title of Ordinance No. 262.3

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: Introduce Ordinance No. 262.3

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of:

AYES: 3

NOES: 2 (Esteves, Polanski)

(3) Motion: approve the Lobbyist Registration Form and implementation per the Open Government Ordinance, as recommended by the City Council Open Government Subcommittee

City Attorney Mattas expressed two points from the latest version of the form before the City Council: 1) the ordinance does not specify reporting periods (thus, quarterly reporting was removed from the draft), and 2) the client range of compensation was not clear based on unknown intent (whether it was from all clients or specifically from the one listed on page 1 of the form).

Vice Mayor Gomez stated he understood the intent was for the one client only. Mr. Livengood believed it was not intended to list all income, solely the one listed client. Mr. Mattas then suggested that a specific reference to the ordinance be listed on the form.

Motion/Second: Vice Mayor Gomez/Councilmember Livengood

Motion carried by a vote of:

AYES: 3

NOES: 2 (Esteves, Polanski)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER

Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 9:45 PM.

RA 2. ROLL CALL

PRESENT: Mayor/Chair Esteves, Vice Mayor/Vice Chair Gomez and Agency/Councilmembers Giordano, Livengood and Polanski

ABSENT: None

RA 3. MEETING MINUTES

Motion: approve the Redevelopment Agency minutes of August 1, 2006, including joint meetings with the City Council, as submitted.

Motion/Second: Agency/Councilmember Giordano / Vice Chair/Vice Mayor Gomez

Motion carried by a vote of:

AYES: 5

NOES: 0

RA 4. Approval of Agenda and Consent Calendar

Motion: approve the agenda and RDA consent calendar

Motion/Second: Agency/Councilmember Livengood/ Agency/Councilmember Giordano

Motion carried by a vote of:

AYES: 5

NOES: 0

*** RA 5. Subordination Agreement for MP Milpitas Affordable Housing Project**

Adopted Resolution No. RA 264 making Findings and Authorizing Execution of a Subordination Agreement for the MP Milpitas Affordable Housing Associates Project.

*** RA 6. Amendment No. 2 with Central Pacific Engineering**

Approved Agreement Amendment No. 2 with Central Pacific Engineering in the amount of \$3,555, subject to approval by City Attorney as to form, and Authorize Project No. 8163 to remain open.

*** RA 7. Amendment No. 1 with SCS Engineers**

Authorized the City Manager to execute Amendment No. 1 to the Agreement with SCS Engineers, for an amount not to exceed \$120,000, for monitoring wells and other work associated with closure of the environmental case on the former Winsor parcels, Ground Abatement Project No. 8154.

